

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
August 21, 2007
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on August 21, 2007, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Huffman, Starling and Wall

Councilmembers absent: Jones

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

PRESENTATION: Red Robin Gourmet Burgers & Spirits - Donation to Fire Department of \$3,200 - Smoke Detector Program

REPORT: Sister Cities Program - Lt. Nim Harris

MINUTES

Mayor Ross called for approval of the City Council Work Session minutes of the meeting on August 6, 2007 and City Council meeting of the meeting on August 7, 2007.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meetings held on August 6, 2007, and August 7, 2007.

ADD-ON: REQUEST AND COMMUNICATION: Romana Allen - Eastbrook Apartments

ADOPTION OF AGENDA

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adopt the agenda with the add-on.

CONSENT AGENDA:

1. (A) To adopt a resolution of intent to annex Joe Davidson Park property.

07-22

RESOLUTION STATING THE INTENT OF THE CITY COUNCIL OF THE CITY OF BURLINGTON TO ANNEX THE JOE C. DAVIDSON PARK PROPERTY WHICH IS CONTIGUOUS TO THE EXISTING MUNICIPAL BOUNDARIES

BE IT RESOLVED by the City Council of the City of Burlington that:

Section 1. It is the intent of the City Council of the City of Burlington, pursuant to G.S. 160A-31(g), to annex the property owned by the City and described in Section 2.

Section 2. The legal description of the property is as follows:

JOE C. DAVIDSON PARK PROPERTY

BEGINNING at a point in Boone Station Township in the southeast corner of property owned by the City of Burlington (also known as Joe C. Davidson Park), said point being the north right-of-way line of Rural Retreat Road (N.C. SR-1300 and in the West right-of-way line of St. Mark's Church Road (N.C. SR- 1301); and proceeding along the northern right-of-way line of Rural Retreat Road, North 87 deg, 03' 59" West a distance of 1,274.63 feet to a point, said point being the southwest corner of Joe C. Davidson Park and also in the line with the property of Michael A. Taylor; thence with the line of Michael A. Taylor, North 13 deg. 00' 15" East a distance of 1687.58 feet to a point, said point being the northwest corner of Joe C. Davidson Park and also in the line with Herbert L. Whitfield; thence

along the line with Herbert Whitfield, Charles Hrdlicka, Gary L. Wilson and Margaret Johnson, South 69 deg. 23' 42" East a distance of 989.79 feet to a point; thence in the line with St. Mark's Church Property, South 29 deg. 30' 02" East a distance of 135.49 feet to a point; thence with the line of Abb J. Gentry and John T. Wagoner, South 26 deg. 06' 00" West a distance of 354.02 feet to a point; thence with the line of John T. Wagoner, South 64 deg. 06' 17" East a distance of 259.45 feet to a point in the right-of-way of St. Mark's Church Road; thence with the right-of-way of St. Mark's Church Road, South 26 deg. 06' 00" West a distance of 89.39 feet to a point; thence along a curve following the right-of-way line of St. Mark's Church Road with a radius of 1402.36 feet, an arc distance of 753.76 feet and having a chord of South 10 deg. 42' 07" West a distance of 744.72 feet to a point in the right-of-way of Rural Retreat Road, said point being the point of BEGINNING and including 39.776 acres and being as shown on *"Final Plat - Subdivision of Property of City of Burlington, Joe Davidson Park Property"* as prepared by the City of Burlington Engineering Department, dated March 3, 2004 and being Drawing No. 737-A.

Section 3. The property described in Section 2 is contiguous to the current municipal boundaries.

Section 4. A public hearing will be held on September 4, 2007, at 7:30 p.m. on this matter and notice of said hearing shall be published at least ten days prior to the date of the public hearing in The Times News, a newspaper having general circulation in the City of Burlington.

(B) To adopt an ordinance approving the following Traffic Commission recommendations:

- 1) To place a stop sign on the northern approach of Hansel Trace to Glenkirk Drive at Mackintosh on the Lake, Glenmoor Subdivision, Phases 2 and 3.
- 2) To place a loading zone on the north side of Worth Street from a point 72 feet northeast of the centerline of Fifth Street to a point 162 feet from the same.

07-30

AMENDMENT TO THE CITY OF BURLINGTON TRAFFIC ORDINANCE

BE IT ORDAINED by the City Council of the City of Burlington:

- 1) To place a stop sign on the northern approach from Hansel Trace to Glenkirk Drive in the Mackintosh on the Lake, Glenmoor Subdivision, Phases 2 & 3.
- 2) To place a loading zone on the north side of Worth Street from a point 72 feet northeast of the centerline of Fifth Street to a point 162 feet from the same.
- 3) That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.
- 4) That this ordinance shall take effect upon passage.

(C) To adopt an ordinance designating a school zone on Bonnar Bridge Parkway for the new Highland Elementary School. The school zone limits along Bonnar Bridge Parkway will be from a point 450 feet east from the Highland Elementary access to a point 768 feet west from the Highland Elementary access.

07-31

PROPOSED AMENDMENTS TO CITY CODE CHAPTER 36-121 "SCHOOL ZONES"

BE IT ORDAINED by the City Council of the City of Burlington that the following change be made to Chapter 36-121, entitled "SCHOOL ZONES" of the City Code:

- 1) That Sec. 36-121. (School Zones) be amended to read as follows:

To designate a school zone on Bonnar Bridge Parkway for the new Highland Elementary School. The school zone limits along Bonnar Bridge Parkway will be from a point 450 feet east from the Highland Elementary access to a point 768 feet west from the Highland Elementary access.

- 2) That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.
- 3) That this ordinance shall take effect upon passage.

(D) Budget Amendment 2008-07 - 2006-2007 Projects Carried Forward

BA2008-07

GENERAL FUND

Increase Revenues:

010-39398-0001 Approp. Restr. Fund Balance	\$676,867
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Increase Expenditures:

PW-Library	
010-55559-7200 Buildings	\$ 13,280
PW-Cemetery	
010-57572-7400 Equipment	63,759
PW-Sanitation	
010-58583-7400 Equipment	99,828
Fire	
010-53538-7400 Equipment	500,000

WATER & SEWER FUND

Increase Revenues:

030-30398-0002 Approp. Restr. Fund Balance	\$243,580
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Increase Expenditures:

Water Line Maintenance	
030-72702-1900 Professional Services	11,050
030-72702-7400 Equipment	36,906
Water Service & Construction	
030-74704-7300 Capital - Other Improvements	14,875
Sewer Service & Construction	
030-75705-7300 Capital - Other Improvements	33,125
Water Source Protection	
030-82802-1900 Professional Services	55,008
030-82802-7300 Capital - Other Improvements	83,813
W&S Plants Maintenance	
030-89809-1900 Professional Services	8,803

(E) Budget Amendment 2008-08 - Repairs to Lake Cammack Dam

BA2008-08

Increase Revenues:

030-39398-0000 Appropriated Fund Balance \$31,037

Increase Expenditures:

030-82802-7300 Capital-Other Improvements \$31,037

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Wall to be recused from Consent Agenda Item 1(C).

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to approve Consent Agenda Items A, B, D and E.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve Consent Agenda Item 1(C). Councilmember Wall abstained.

PUBLIC HEARINGS:

ITEM 2: HIGHLAND ELEMENTARY SCHOOL ANNEXATION

Mayor Ross announced that a public hearing had been scheduled to consider approval of the Highland Elementary School annexation to be effective August 21, 2007, at 11:59 p.m.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Wall to be recused.

Planning Director Bob Harkrader stated that this was a voluntary annexation and that the Alamance-Burlington Board of Education had approved the request. He stated that the annexation would help facilitate emergency response to this school.

Fire Chief Jay Smith stated that the school would be served from Station 4 on South Church Street and that Station 5 on Industry Drive would be the backup.

City Manager Owen pointed out that the Burlington Police and Fire Departments would be responding beyond the City limits.

Mayor Ross asked for an updated City limits map.

Police Chief Williams stated that Burlington would be concerned with emergency response and that other calls would be handled by the appropriate agency.

Mrs. Lisa Wolff asked the City Council to consider traffic-slowing devices on Bonnar Bridge Parkway.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing. Councilmember Wall abstained.

Councilmember Huffman moved the adoption of the following ordinance:

07-32

AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE
CITY OF BURLINGTON, NORTH CAROLINA

WHEREAS, the City Council has been permitted under G.S. 160A-31 to annex the area described below; and

WHEREAS, the City Clerk has certified the sufficiency of the petition and a public hearing on the question of this annexation was held at the City of Burlington Municipal Building at 9:00 am on August 21, 2007, after due notice by the publication on August 10, 2007; and

WHEREAS, the City Council finds that the petition meets the requirements of G.S. 160A-31;

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Burlington, North Carolina that:

Section 1. By virtue of the authority granted by G.S. 160A-31 the following described territory is hereby annexed and made part of the City of Burlington as of August 21, 2007, at 11:59 pm.

HIGHLAND ELEMENTARY ANNEXATION

That certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, adjoining the lands Martin Marietta Materials, Inc., George W. Moody, John A. Moody, the Public Right of Way of Bonnar Bridge Parkway, Sandler at Wakefield, LLC, and being more particularly described as follows:

BEGINNING at an iron stake in the southern margin of the right of way of Bonnar Bridge Parkway said beginning point being the northeast corner of John A. Moody (Lot 2B, Plat Book 71 Page 391 Alamance County registry) running thence with southern right of way of Bonnar Bridge Parkway N 83°50'14" E 48.58 feet to and iron stake; thence N 87°16'12" E 167.00 feet to an iron stake; thence N 83°50'14" E 173.46 feet to an iron stake; thence along a curve to the left having a radius of 645.00 feet and a chord bearing and distance of N 77°41'14" E 138.20 feet to an iron stake on the said southern right of way of Bonnar Bridge Parkway said iron stake being a corner with Sandler at Wakefield, LLC; thence leaving said right of way and running with the western line of Sandler at Wakefield, LLC S 16°41'10" E 53.16 feet to an iron stake; thence S 10°53'30" W 82.81 feet to an iron stake; thence S 49°07'03" W 210.40 feet to an iron stake; thence S 32°31'06" E 160.34 feet to an iron stake; thence S 38°33'21" W 59.87 feet to an iron stake; thence S 50°04'59" E 209.65 feet to an iron stake; thence S 31°04'57" W 66.73 feet to an iron stake; thence S 55°18'15" E 224.89 feet to an iron stake; thence S 16°18'10" E 258.00 feet to an iron stake; thence S 31°04'57" W 367.08 feet to an iron stake in the line of Martin Marietta Materials, Inc.; running thence with the line of said Martin Marietta Materials, Inc. N 58°55'03" W 950.58 feet to an iron stake being a corner with George W. Moody; running thence with the eastern line of said Moody N 35°35'53" E 245.05 feet to an iron stake; thence N 39°11'20" W 301.98 feet to an iron stake being a corner with John A. Moody; running thence with the line of said John A. Moody N 36°19'29" E 432.33 feet to the point and place of BEGINNING and containing 18.009 acres, more or less, and being all of lot number 2 of the final plat "Mackintosh East" by Alley Williams Carmen & King, job number 05134 and dated February 20, 2006 as recorded in Plat Book 70 page 403 of the Alamance County Registry.

Section 2. Upon and after August 21, 2007 at 11:59 pm, the above described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the City of Burlington and shall be entitled to the same privileges and benefits as other parts of the City of Burlington. Said territory shall be subject to municipal taxes according to G.S. 160A-58.10.

Section 3. The Mayor of the City of Burlington shall cause to be recorded in the office of the Register of Deeds of Alamance County, and in the office of the Secretary of State at Raleigh, North Carolina, an accurate map of the annexed territory, described in Section 1 above, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the County Board of Elections, as required by G.S. 163-288.1.

Adopted this 21st day of August 2007.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman and Starling. Councilmember Wall abstained.

ITEM 3: JOE DAVIDSON PARK - ANNEXATION

Mayor Ross announced that a public hearing was scheduled to consider approval of the Joe Davidson Park annexation, however, staff had requested that the public hearing be rescheduled for September 4, 2007.

Planning Director Harkrader stated this request was a voluntary annexation of City-owned property that is Joe Davidson Park. He stated that there is a nuance in the statutes that requires that when annexing City-owned property, a resolution of intent be adopted which was earlier in the meeting. He stated that the hearing for the annexation should be continued to September 4, 2007.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adopt the following resolution continuing the public hearing to September 4, 2007:

NOTICE OF RESCHEDULING OF THE PUBLIC HEARING FOR THE ANNEXATION
OF THE JOE C. DAVIDSON PARK PROPERTY

WHEREAS, a resolution stating the intent of the City of Burlington to annex the contiguous area described herein was adopted by the City Council of the City of Burlington, North Carolina, on August 21, 2007 in accordance with G.S. 160A-31(g); and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. The public hearing for the annexation of the area described herein has been rescheduled from 9:00 am on August 21, 2007 to 7:30 pm on September 4, 2007, in the City council Chambers at 425 South Lexington Avenue, Burlington, NC.

Section 2. The area proposed for annexation is described as follows:

JOE C. DAVIDSON PARK PROPERTY

BEGINNING at a point in Boone Station Township in the southeast corner of property owned by the City of Burlington (also known as Joe C. Davidson Park), said point being the north right-of-way line of Rural Retreat Road (N.C. SR-1300 and in the West right-of-way line of St. Mark's Church Road (N.C. SR- 1301); and proceeding along the northern right-of-way line of Rural Retreat Road, North 87 deg, 03' 59" West a distance of 1,274.63 feet to a point, said point being the southwest corner of Joe C. Davidson Park and also in the line with the property of Michael A. Taylor; thence with the line of Michael A. Taylor, North 13 deg. 00' 15" East a distance of 1687.58 feet to a point, said point being the northwest corner of Joe C. Davidson Park and also in the line with Herbert L. Whitfield; thence along the line with Herbert Whitfield, Charles Hrdlicka, Gary L. Wilson and Margaret Johnson, South 69 deg. 23' 42" East a distance of 989.79 feet to a point; thence in the line with St. Mark's Church Property, South 29 deg. 30' 02" East a distance of 135.49 feet to a point; thence with the line of Abb J. Gentry and John T. Wagoner, South 26 deg. 06' 00" West a distance of 354.02 feet to a point; thence with the line of John T. Wagoner, South 64 deg. 06' 17" East a distance of 259.45 feet to a point in the right-of-way of St. Mark's Church Road; thence with the right-of-way of St. Mark's Church Road, South 26 deg. 06' 00" West a distance of 89.39 feet to a point;

thence along a curve following the right-of-way line of St. Mark's Church Road with a radius of 1402.36 feet, an arc distance of 753.76 feet and having a chord of South 10 deg. 42' 07" West a distance of 744.72 feet to a point in the right-of-way of Rural Retreat Road, said point being the point of BEGINNING and including 39.776 acres and being as shown on "Final Plat - Subdivision of Property of City of Burlington, Joe Davidson Park Property" as prepared by the City of Burlington Engineering Department, dated March 3, 2004 and being Drawing No. 737-A.

Section 3. Notice of the public hearing shall be published at least 10 days prior to the date of the public hearing in The Times News, a newspaper having general circulation in the City of Burlington.

ITEM 4: AMEND CONDITIONAL REZONING - ALAMANCE CROSSING

Mayor Ross announced that a public hearing had been scheduled to consider amending a Conditional rezoning approved for Alamance Crossing, LLC. The property is located south of Garden Road, east of University Drive, west of Westview Terrace and north of Interstate 85/40 as shown on Alamance County Tax Map 3-24-33 and 3-26, Lots 20 and 34.

Mr. Lawson Brown, Vernon, Vernon, Wooten, Brown, Andrews and Garrett, P.A., stated that this request was a follow-up to the Final Plat approval for Alamance Crossing that was handled on August 7, 2007. He requested a right-in-only entrance from Boone Station Drive to Glidewell Drive, to prohibit service stations, convenience stores, gas storage facilities or any combination thereof on Lot 21, to provide controlled access to Lot 25 as the same abuts Boone Station Drive and to provide controlled access to Lot 22 along the northern edge of the lot on Boone Station Drive and the south side of the lot along Glidewell Drive. Mr. Brown pointed out the requests were unanimously approved by the Planning and Zoning Commission, the Planning staff, and the North Carolina Department of Transportation.

Mr. Don Reynolds, 1243 Westview Terrace, Fairview Subdivision, asked that the public hearing be tabled until CBL met the terms and agreements that were made when construction began on Alamance Crossing. Mr. Reynolds stated that CBL and the residents of the Fairview Subdivision had an agreement that if the residents allowed the road be within 100 feet of their property that property would be deeded to the homeowners on

Westview Terrace and that had not taken place. He said that now CBL has asked to take a portion of that property and keep it for themselves. He said the concern was that the residents did not get blocked in like the housing development behind the Lincoln-Mercury dealership on Huffman Mill Road. He stated his property was prime commercial real estate and that the residential value was gone. He reiterated that the neighborhood petitioned that the buffer zone would be on one side of the road and Fairview Estates would be on the other side. He requested protection for entire neighborhood.

Councilmember Huffman pointed out that Fairview Street was not part of the request. He suggested that Mr. Reynold's request be heard during the public comment period.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-33

ORDINANCE TO AMEND PREVIOUSLY APPROVED CONDITIONAL BUSINESS REZONING - ALAMANCE CROSSING

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That CBL and Associates has requested that the Development Conditions previously approved for Alamance Crossing located south of Garden Road, east of University Drive, west of Westview Terrace and north of Interstate 85/40 as shown on Alamance County Tax Map 3-24-33 and ACTM 3-26, Lots 20 and 34, be amended as follows:

- (1) Provide a right-in-only entrance from Boone Station Drive to Glidewell Drive.
- (2) Prohibit service stations, convenience stores, gas (petroleum) storage facilities or any combination thereof on Lot 21 (ACTM 3-24-33) and Lot 22 (ACTM 3-26-34).
- (3) Provide controlled access to Lot 25 (ACTM 3-26-20) as the same abuts Boone Station Drive.

(4) Provide controlled access to Lot 22 (ACTM 3-26-34) along the northern edge of the lot on Boone Station Drive and on the south side of the lot along Glidewell Drive.

Section 2. That the amendments to the Conditional Business District allowing the change in Development Conditions is hereby authorized subject to the property complying with all Use and Development Conditions approved April 20, 2004, and amended June 7, 2005, July 19, 2005, April 18, 2006, June 20, 2006, and September 19, 2006.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall.

REQUEST AND COMMUNICATION: Romana Allen - Eastbrook Apartments

Ms. Romana Allen, property manager, Eastbrook Apartments, requested a more effective partnership of private and public agencies to address the employment and housing concerns of the poor. Ms. Allen stated she was speaking on behalf of Mr. Rodney Smith of Smith Rentals and for the residents of the apartment complex. She pointed out that low-income apartments like Eastbrook meet a critical need in the City and are therefore worthy of assistance.

Councilmember Huffman stated that public/private partnerships are working around the country but that there were certain things that a City could not do such as go on to private property and expend taxpayers' dollars to improve or maintain that property. He explained that money could be spent on infrastructure. Mr. Huffman asked staff to look at the Eastbrook area to see if Community Development Block Grant funds could be utilized for infrastructure.

Mayor Ross commended Ms. Allen for her efforts.

Councilmember Wall pointed out that the sidewalks that were forthcoming this year on Vaughn Road were a good example of public infrastructure.

Ms. Allen said there was a possibility that Mr. Smith would sell property to the City to be used for a soccer field and a walking track.

Mr. Owen stated that the transitioning program that will be rolled out on October 1, 2007, is designed for this type of problem. He pointed out that the gang problem would be dealt with by the entire Police Department. He said that Parks and Recreation might be able to work with Mr. Smith on building a soccer field.

Councilmember Wall stated there should be opportunities to use school fields but that it should be arranged through the City Parks and Recreation Department since it has an agreement with the City.

Mr. Owen recommended that Mr. David Beal, Planning Department, and Ms. Allen get together.

PUBLIC COMMENT PERIOD:

Mr. Don Reynolds stated that berms have been built at Alamance Crossing and that the neighborhood was opposed to them because there was an agreement with Centerpoint Development that the land was to be conveyed to the property owners in lieu of any type of buffer zone. Mr. Reynolds stated that Mr. Jon Meshel with Alamance Crossing told him in June that the property would be conveyed to the property owners and that the berms could be removed if the City agreed to it.

Mr. Brown suggested a meeting with Mr. Meshel and the neighbors to work out the problem.

COMMENTS FROM ALAMANCE COUNTY COMMISSIONERS' MEETING

Councilmember Wall stated that he attended a Commissioners' meeting on August 20, 2007, where chiefs of police from municipalities in Alamance County were in attendance. He spoke in favor of a joint task force.

ADJOURN:

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk